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SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
09/005,711	01/12/98	BROCIA	R

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HM32/0629

EXAMINER	
GITOMER, R	
ART UNIT	PAPER NUMBER
1623	<i>[Signature]</i>

DATE MAILED: 06/29/98

Please find below a communication from the EXAMINER in charge of this application.

Commissioner of Patents

# Office Action Summary

Application No.

09/005,711

Applicant(s)

Brocla

Examiner

Ralph Gltomer

Group Art Unit

1623



☒ Responsive to communication(s) filed on Jan 12, 1998

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1035 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claim

☒ Claim(s) 1-11 is/are pending in the application

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1-11 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☒ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

Applicant is requested to inform examiner of any related applications or patents and to amend the present specification appropriately.

5 An examination of this application reveals that applicant is unfamiliar with patent prosecuting procedure. While an inventor may prosecute the application, lack of skill in this field usually acts as a liability in affording the maximum protection for the invention disclosed. Applicant is advised to secure the services of a registered patent attorney or agent to prosecute the application, since the value of a patent is largely dependent upon skillful preparation and prosecution. The Office cannot aid in selecting an attorney or agent.

10 Applicant is advised of the availability of the publication "Attorneys and Agents Registered to Practice Before the U.S. Patent and Trademark Office." This publication is for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

15 Claims 1-11 are rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph.

20 The claim(s) are narrative in form and replete with indefinite and functional or operational language. The compound claim 4 does not define a compound, the method claims do not define any method. The claim(s) must be in one sentence form only. Note the format of the claims in the patent(s) cited.

25 The claims are not in condition for examination and a complete and proper search is impossible. Upon receipt of proper claims, further prosecution will be possible.

30 In claim 1 "a protein activity dependent light emitting component" and "a substrate concentration depend[e]nt light quenching component" are indefinite as to what is intended. In claim 2, "a donor particle comprised of fluorescent lipid" and "a

colorimetric assay specific for neutral lipids" are not understood as to what is intended. In claim 3 "a turbidometric assay specific for a protein" is not understood as to what is intended. Claim 4 is entirely not understood as to what is intended.

The title of the invention is not aptly descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following prior art pertinent to applicant's disclosure is made of record and not relied upon:

Brocia (5,459,567, 5,585,235, 5,618,683) teach enzyme assays, Shultz (5,580,747) teaches an enzyme assay.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ralph Gitomer whose telephone number is (703) 308-0732. The examiner can normally be reached on Tuesday-Friday from 8:00 am - 5:00 pm. The examiner can also be reached on alternate Mondays. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marian Knode, can be reached on (703) 308-4311. The fax phone number for this Art Unit is (703) 308-4556.

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Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-1234.

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Ralph Gitomer  
Primary Examiner  
Group 1623

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**RALPH GITOMER  
PRIMARY EXAMINER  
GROUP 1200**